
Our File: 14059

March 5, 2013

Elaine Wagner
Chief Clerk of the Board
Nova Scotia Utility and Review Board
1601 Lower Water Street, 3rd Floor
Halifax, NS B3J 3P6

Dear Ms. Wagner:

**Re: PL-12-10/M05086 – An appeal by Ollive Properties Limited from the Decision of the Harbour East Community Council July 5, 2012, approving a development agreement with Can-Euro Investments
Your File - 2012 NSUARB 56 MO5086**

And Re: March 1, 2013 decision of Dawna J. Ring, Q.C., Board Member

We have received the decision of the Board dated March 1, 2013 in the aforementioned matter. Respectfully, HRM refers this Board to the general principle of administrative law that a party must be given an opportunity to answer before an administrative tribunal renders a decision.

Procedural fairness dictates that administrative decisions are to be made using a fair and open procedure, with an opportunity for those affected by the decision to put forward their views and evidence fully, and to have them considered by the decision maker.

On February 25, 2013, the Appellant Ollive Properties Ltd. withdrew its appeal. Subsequent to the withdrawal, the Board made findings of fact based on a partial hearing of the evidence. As the Board is aware, the Respondent's Architect and Planner did not have an opportunity to give evidence as the withdrawal occurred prior to their testimony.

The Board stated on February 25, 2013, that it was not prepared to grant a dismissal order without the consent of the Appellant. There was no indication at that time that any other reason was being considered by the Board in relation to its refusal to grant the order requested by Mr. James. Upon leaving the hearing HRM was of the view that the matter was concluded and that the Board was from that time, *functus officio*.

The Parties were not given an opportunity to make submissions to the Board on the issue regarding the dismissal order, nor were they given an opportunity to make submissions on the ability of the Board to make findings of fact without having afforded the Parties the opportunity of a full hearing.

All of which is respectfully submitted.

Yours very truly,

HALIFAX REGIONAL MUNICIPALITY

A handwritten signature in dark ink, appearing to read 'E. MacLaurin', written in a cursive style.

E. Roxanne MacLaurin
Senior Solicitor
ERM/pm

cc: Nancy Rubin
Dennis J. James